

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO.981 OF 2022
IN
FIRST APPEAL NO.437 OF 2022

Sheikh Sadik Sheikh Babbu
Vs.
Smt. Kavita wd/o Raju Ingole and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. U. M. Aurangabadkar, Advocate for the appellant.
Mr. Rohan Deo, Advocate h/f Mr. Madhur Deo, Advocate for respondent Nos.1 to 5.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/02/2023

1. By preferring this application, the appellant who is the owner of the offending vehicle is seeking stay to the implementation, execution and operation of the impugned Judgment and Award dated 05.08.2020 passed by the learned Member, Motor Accident Claims Tribunal, Chandrapur.

2. As per the contention of the appellant, learned Tribunal has erroneously passed the Judgment and awarded exorbitant compensation amount. The offending vehicle was not insured and therefore appellant is saddled with the responsibility to deposit the entire compensation amount. The amount of compensation awarded is Rs.20,43,334/- along with 7% interest which is exorbitant amount and it is difficult for

the appellant to deposit it in lump sum. If execution is filed by the respondent Nos.1 to 5, then it will be difficult for the appellant to face such execution and appeal will become infructuous.

3. The said application is strongly opposed by the respondents on the ground that though award is passed in their favour, they have not received a single penny towards the compensation. Respondent No.1 has lost her husband in the said accident. She has no source of income and therefore, application deserves to be rejected.

4. Heard both sides.

5. Perused the application, as well as submissions of both the sides. Admittedly, the compensation amount awarded huge amount and it is difficult for the appellant to deposit it in lump sum. At the same time, it has to be considered that respondent Nos.1 to 5 have lost their near and dear one and also lost their source of income. In view of that, it will be just and proper to direct the appellant to deposit 60% of the compensation amount within three months.

6. Appellant to deposit 20% of amount within one month of the passing of this order, next 20% in next one month and remaining 20% in one month thereafter.

7. On failure to deposit the amount as noticed above, the stay granted will be vacated automatically. In view of that, I proceed to pass following order.

ORDER

(i) Civil Application No.981/20202 is disposed of.

(ii) The implementation, execution and operation of the impugned Judgment and Award passed by the learned Member, Motor Accident Claims Tribunal, Chandrapur in Motor Accident Claims Petition No.105/2015 be stayed on condition that appellant to deposit 20% of the amount within one month, next 20% in the next one month and remaining 20% thereafter in one month.

(iii) Civil Application is disposed of.

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Appellant to file paper book within one month.

Appeal be placed for final hearing after verification of the paper book.

(URMILA JOSHI-PHALKE, J.)

Sarkate